

COUNSELOR

Rule 2.1. Advisor.

In representing a client, a licensed paralegal practitioner shall exercise independent professional judgment and render candid advice. In rendering advice, a licensed paralegal practitioner may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation.

Comment

Scope of Advice

[1] A client is entitled to straightforward advice expressing the licensed paralegal practitioner's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a licensed paralegal practitioner endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, a licensed paralegal practitioner should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.

[2] Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a licensed paralegal practitioner to refer to relevant moral and ethical considerations in giving advice. Although a licensed paralegal practitioner is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.

[3] A client may expressly or impliedly ask the licensed paralegal practitioner for purely technical advice. When such a request is made by a client experienced in legal matters, the licensed paralegal practitioner may accept it at face value. When such a request is made by a client inexperienced in legal matters, however, the licensed paralegal practitioner's responsibility as advisor may include indicating that more may be involved than strictly legal considerations.

29 [4] Matters that go beyond strictly legal questions within the scope of the licensed paralegal
30 practitioner's license may also be in the domain of another profession. Family matters can
31 involve problems within the professional competence of psychiatry, clinical psychology or social
32 work; business matters can involve problems within the competence of the accounting profession
33 or of financial specialists; legal matters may be beyond the expertise of the licensed paralegal
34 practitioner. Where consultation with a professional in another field or with a lawyer is itself
35 something a competent licensed paralegal practitioner would recommend, the licensed paralegal
36 practitioner should make such a recommendation. At the same time, a licensed paralegal
37 practitioner's advice at its best often consists of recommending a course of action in the face of
38 conflicting recommendations of experts.

39 Offering Advice

40 [5] In general, a licensed paralegal practitioner is not expected to give advice until asked by the
41 client. However, when a licensed paralegal practitioner knows that a client proposes a course of
42 action that is likely to result in substantial adverse legal consequences to the client, the licensed
43 paralegal practitioner's duty to the client under Rule 1.4 may require that the licensed paralegal
44 practitioner offer advice if the client's course of action is related to the representation. Similarly,
45 when a matter is likely to involve litigation, it may be necessary under Rules 1.1 and 1.4 to seek
46 competent legal advice from a lawyer. A licensed paralegal practitioner ordinarily has no duty to
47 initiate investigation of a client's affairs or to give advice that the client has indicated is
48 unwanted, but a licensed paralegal practitioner may initiate advice to a client when doing so
49 appears to be in the client's interest and when giving the advice is within the scope of the
50 licensed paralegal practitioner's license.